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7 Attorney for Davion Fitzgerald

8
9 **UNITED STATES DISTRICT COURT**
10 **DISTRICT OF NEVADA**

11 UNITED STATES OF AMERICA,

12 Plaintiff,

13 v.

14 DAVION FITZGERALD,

15 Defendant.

Case No. 2:17-cr-00295-JCM-NJK-1

DEFENDANT'S MOTION TO
CONTINUE RESENTENCING

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17 **Certification:** This motion is timely filed.

18 Defendant Davion Fitzgerald, through his attorney of record, Assistant Federal Public
19 Defender Heidi Ojeda, hereby submits this motion to continue the resentencing set for January
20 9, 2020 at 10:30 a.m.

21 DATED this 18th day of December 2019.

22 RENE L. VALLADARES
Federal Public Defender

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24 By: /s/Heidi Ojeda

25 HEIDI OJEDA
Assistant Federal Public Defender
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1 the time for filing a certiorari petition expires.”) As such, Mr. Fitzgerald requests that this
2 Court continue his resentencing hearing to allow time to file his writ of certiorari.

3 The government has indicated to undersigned counsel that they would oppose any
4 request for a continuance because Mr. Fitzgerald is scheduled for release on July 5, 2020 and
5 they are concerned that continuing the sentencing hearing could create issues if this Court
6 ultimately decided to change Mr. Fitzgerald’s sentence.

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8 Given that Mr. Fitzgerald has the right to appeal the adverse ruling from the Ninth
9 Circuit and that the need to resentence him only become final after the Supreme Court
10 reviews and issues a decision concerning his writ of certiorari, this Court should grant
11 Mr. Fitzgerald’s motion to continue.
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1 UNITED STATES DISTRICT COURT

2 DISTRICT OF NEVADA

3 UNITED STATES OF AMERICA,

4 Plaintiff,

5 v.

6 DAVION FITZGERALD,

7 Defendant.

Case No. 2:17-cr-295-JCM-NJK

PROPOSED ORDER

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10 IT IS THEREFORE ORDERED that the resentencing hearing currently scheduled for
11 Thursday, January 9, 2020 at 10:30 a.m., be vacated and continued to April 9, 2020 at
12 the hour of 10 : 00 a.m.;

13 DATED December 20, 2019.

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16 UNITED STATES DISTRICT JUDGE
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CERTIFICATE OF ELECTRONIC SERVICE

The undersigned hereby certifies that she is an employee of the Federal Public Defender for the District of Nevada and is a person of such age and discretion as to be competent to serve papers.

That on December 18, 2019, she served an electronic copy of the above and foregoing **DEFENDANT'S MOTION TO CONTINUE RESENTENCING** by electronic mail service to the persons named below:

NICHOLAS A. TRUTANICH
United States Attorney
DANIEL EVAN CLARKSON
Assistant United States Attorney
501 Las Vegas Blvd. South
Suite 1100
Las Vegas, NV 89101

/s/ Rosana Aporta

Employee of the Federal Public Defender